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**AMENDMENT TO STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

RECEIVED

APR -9 P 3:21

**APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE LOCAL COMPETITIVE SERVICES AND
PETITION FOR COMPETITIVE CLASSIFICATION OF PROPOSED
SERVICES WITHIN THE STATE OF ARIZONA**

**Applicant: ECLIPSE COMMUNICATIONS CORPORATION, NOW KNOWN AS
WESTERN CLEC CORPORATION**

Docket No.: T-03590A-98-0364

On July 2, 1998, Eclipse Communications Corporation, now known as Western CLEC Corporation ("Western CLEC" or "Applicant"), filed an application for a Certificate of Convenience and Necessity ("CC&N") to provide facilities-based and resold interexchange services; facilities-based and resold local exchange services; and access service within the State of Arizona. Western CLEC petitioned the Arizona Corporation Commission ("Commission") for a determination that its proposed services should be classified as competitive.

The Staff report filed on November 3, 2000 provided information obtained from the financial statements submitted by the Applicant. However, at the hearing held February 26, 2001, regarding the above-referenced application, the administrative law judge requested that Western CLEC submit updated financial information for the company as a late file exhibit. The applicant filed updated financials on March 1, 2001.

However, it is now Staff's understanding that any analysis of financial information submitted by an applicant which allows Staff to determine requisite bond requirements may not include parent company financial data to show Applicant's financial viability. This understanding has resulted from discussions held by the Commissioners at the Open Meeting on March 27 and 28, 2001. Therefore, Staff is amending its Report related to bonding requirements.

The section under the heading of "2.5 FINANCIAL CAPABILITY TO PROVIDE THE REQUESTED SERVICES" should read as follows:

Since Western CLEC has submitted only financial information of its parent company, Staff is unable to determine if Western CLEC has sufficient financial strength to offer the requested telecommunications services in Arizona absent the procurement of a performance bond.

Arizona Corporation Commission
DOCKETED

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Since the Applicant did not provide sufficient financial documentation, Staff believes that any deposits, prepayments, and advances received from the Applicant's customers should be protected. Further, measures should be taken to ensure that the Applicant will not discontinue service to its customers without first complying with A.A.C. R14-2-1107.

To that end, Staff recommends that the Applicant procure a performance bond equal to \$100,000. The minimum bond amount of \$100,000 should be increased if at any time it would be insufficient to cover prepayments or deposits collected from the Applicant's customers. If the Applicant desires to discontinue service it must file an application with the Commission pursuant to A.A.C. R14-2-1107. Additionally, the Applicant must notify each of its customers and the Commission 60 days prior to filing an application pursuant to A.A.C. R14-2-1107. Failure to meet this requirement should result in forfeiture of the Applicant's performance bond. Staff further recommends that proof of the above mentioned performance bond be docketed within 90 days of the effective date of an order in this matter or 30 days prior to the provision of service, whichever comes first.

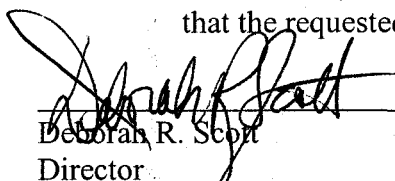
After one year of operation under the CC&N granted by the Commission, Staff recommends that the Applicant be allowed to file a request for cancellation of its performance bond. Such request should be accompanied by information demonstrating the Applicant's financial viability. Upon receipt of such filing and after Staff review, Staff will forward its recommendation to the Commission for a Decision.

Moreover, the section under the heading of "5.1 RECOMMENDATIONS OF WESTERN CLEC'S APPLICATION FOR A CC&N" should include the follows:

18. In order to protect the Applicant's customers,

- a.) the Applicant should be ordered to procure a performance bond equal to \$100,000. The minimum bond amount of \$100,000 should be increased if at any time it would be insufficient to cover prepayments or deposits collected from the Applicant's customers;
- b.) if the Applicant desires to discontinue service, it should file an application with the Commission pursuant to A.A.C. R14-2-1107;
- c.) the Applicant should be required to notify each of its customers and the Commission 60 days prior to filing an application to discontinue service pursuant to A.A.C. R14-2-1107; and any failure to do so should result in forfeiture of the Applicant's performance bond;
- d.) proof of the performance bond should be docketed within 90 days of the effective date of an order in this matter or 30 days prior to the provision of service, whichever comes first; and

- e.) after one year of operation under the CC&N granted by the Commission, Staff recommends that the Applicant be allowed to file a request for cancellation of its established performance bond. Such request should be accompanied by information demonstrating the Applicant's financial viability. Upon receipt of such filing and after Staff review, Staff will forward its recommendation to the Commission for a Decision that the requested cancellation is in the public interest.



Deborah R. Scott
Director
Utilities Division

Date: 4/06/01

Originator: Rodney Moore

Date: April 5, 2001